

is from the program level to site-specific actions taken under that program or from an initial EIS to a supplement which discusses the issues requiring supplementation.

**§ 1940.328 State Environmental Policy Acts.**

(a) Numerous States have enacted environmental policy acts or regulations similar to NEPA, hereafter referred to as State NEPA's. It is important that FmHA or its successor agency under Public Law 103-354 staff have an understanding of which States have such requirements and how they apply to applicant's proposals. It will be the responsibility of each State Director to determine the applicable State requirements and to establish a working relationship with the State personnel responsible for their implementation.

(b) In processing projects located within States having State NEPA's, the preparer of the FmHA or its successor agency under Public Law 103-354 assessment will determine as early as possible in the assessment process whether the project falls under the requirements of the State NEPA. If it does, one of the following cases will exist and the appropriate actions specified will be taken.

(1) The applicant has complied with the State's NEPA, and it was determined under the State's requirements that the proposed project would not result in sufficient potential impacts to warrant the preparation of an impact statement or other detailed environmental report required by the State NEPA. This finding or conclusion by the State will be considered in the FmHA or its successor agency under Public Law 103-354's review, and any supporting information used by the State will be requested. However, the State's finding can never be the total basis for FmHA or its successor agency under Public Law 103-354's environmental impact determination. An independent and thorough review in accordance with the requirements of this subpart must be conducted by the preparer.

(2) The applicant has complied with the State NEPA, and it was determined under its implementing guidelines that a significant impact will result. This

fact will be given great weight in the Agency's environmental determination. However, the State's definition of significant environmental impact may encompass a much lower threshold of impacts compared to FmHA or its successor agency under Public Law 103-354's. In such a case, if the preparer does not believe that a significant impact will result under Agency guidelines for determining significant impacts, the environmental assessment will be prepared and include a detailed discussion with supporting information as to why the environmental reviewer's recommendation differs from that of the State's. However, the assessment cannot be completed until the State's impact statement requirements have been fulfilled by the applicant and the resulting impact statement has been reviewed by the preparer. An environmental impact determination will then be executed based upon the assessment and the statement.

(c) It should be emphasized that at no time does the completion of an impact statement under the requirements of a State NEPA obviate the requirement for FmHA or its successor agency under Public Law 103-354 to prepare an impact statement. Consequently, as soon as it is clear to the preparer that the Agency will have to prepare a statement, every attempt should be made to accomplish the statement simultaneously with the State's. Coordination with State personnel is necessary so that data and expertise can be shared. In this manner, duplication of effort and the review periods for the separate statements can be minimized. This process clearly requires a close working relationship with the appropriate State personnel.

**§ 1940.329 Commenting on other Agencies' EIS's.**

(a) State Directors are authorized to comment directly on EIS's prepared by other Federal agencies. In so doing, comments should be as specific as possible. Any recommendations for the development of additional information or analyses should indicate why there is a need for the material.

(b) Comments should concentrate on those matters of primary importance to FmHA or its successor agency under

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Public Law 103-354 and on areas of Agency expertise, such as rural planning and development. Any potential conflicts with FmHA or its successor agency under Public Law 103-354 programs, plans, or actions should be clearly identified. Special attention should be given to the relationship of the alternatives under study to the State Office's natural resource management guide and the objectives of the Department's land use regulation (exhibit A of this subpart). Copies of comments addressing land use questions will be provided to the appropriate chairman of the USDA State-level committee dealing with land use matters.

(c) Whenever a State Director has serious concerns over the acceptability of the anticipated environmental impacts, the State Director will notify the Administrator.

#### § 1940.330 Monitoring.

(a) FmHA or its successor agency under Public Law 103-354 staff who normally have responsibility for the post-approval inspection and monitoring of approved projects will ensure that those measures which were identified in the preapproval stage and required to be undertaken in order to reduce adverse environmental impacts are effectively implemented.

(b) This staff, as identified in paragraph (a) of this section, will review the action's approval documents and consult with the preparer of the action's environmental review document prior to making site visits or requesting project status reports in order to determine if there are environmental requirements to be monitored.

(c) The preparer will directly monitor actions containing difficult or complex environmental special conditions.

(d) Before certifying that conditions contained within offers of financial assistance have been fully met, the responsible monitoring staff will obtain the position of the preparer for those conditions developed as a result of the environmental review.

(e) Whenever noncompliance with an environmental special condition is detected by FmHA or its successor agency under Public Law 103-354 staff, the

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preparer and the SEC will be immediately informed. The approving official will then take appropriate steps, in consultation with the responsible program office, the SEC and preparer, to bring the action into compliance.

#### § 1940.331 Public involvement.

(a) *Objective.* The basic objective of FmHA or its successor agency under Public Law 103-354's public involvement process is threefold. It is to ensure that interested citizens can readily obtain knowledge of the environmental review status of FmHA or its successor agency under Public Law 103-354's funding applications, have the opportunity to input into this review process before decisions are made, and have access to the environmental documents supporting FmHA or its successor agency under Public Law 103-354 decisions.

(b) *Public notice requirements.* (1) For projects that undergo the preparation of an environmental impact statement, the first element of formal public participation in the EIS process involves the publication of the notice of intent to prepare an EIS. The content of the notice of intent and its publication by FmHA or its successor agency under Public Law 103-354 in the FEDERAL REGISTER are explained in § 1940.320 of this subpart. With respect to notification within the project area, the applicant will be requested to publish a copy of the notice of intent and the date of the scoping meeting in the newspaper of general circulation in the vicinity of the proposed action and in any local or community-oriented newspapers within the proposed action's area of environmental impact. The notice will be published in easily readable type in the nonlegal section of the newspaper(s). It will also be bilingual if the affected area is largely non-English speaking or bilingual. Individual copies of the notice will be sent by the applicant to the appropriate regional EPA office, any State and regional review agencies established under Executive Order 12372; the State Historic Preservation Officer; local radio stations and other news media; any State or Federal agencies planning to provide financial assistance to this or related actions or required to review permit applications